

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6810

BILL NUMBER: HB 1245

NOTE PREPARED: Mar 9, 2004

BILL AMENDED: Feb 19, 2004

SUBJECT: Neglect of Dependent.

FIRST AUTHOR: Rep. Van Haften

FIRST SPONSOR: Sen. Broden

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill makes neglect of a dependent a Class A felony instead of a Class D felony if the neglect results in the death of a dependent who is less than 14 years of age and is committed by a person at least 18 years of age. The bill makes contributing to delinquency a Class C felony instead of a Class A misdemeanor if the person furnishes alcohol or a controlled substance to a minor and consumption of the alcohol or drug is the proximate cause of the death of any person.

Effective Date: July 1, 2004.

Explanation of State Expenditures: Under current law, neglect of a dependent, a Class D felony, occurs if the person places a dependent in a situation that endangers the dependent's life or health, abandons or cruelly confines a dependent, deprives a dependent of necessary support, or deprives a dependent of education as required by law. The offense becomes a Class C felony if the act results in bodily injury or a Class B felony if the act results in serious bodily injury.

Under the bill, the offense would be a Class A felony if the offense (excluding deprivation of education) is committed by a person at least 18 years of age and results in the death of a dependent who is less than 14 years old. On average between 1999 and 2003, there were 34 offenders committed to Department of Correction (DOC) facilities for Class D felony neglect of a dependent, and 18 offenders for the Class B felony. On average between 2001 and 2003, there were 10 offenders committed for the Class C felony. There are no data available to indicate if these offenders would have been convicted of the Class A felony under the bill.

The bill also allows the court to charge a person, who is at least 21 years of age, with a Class C felony if (1) the (a) person knowingly or intentionally furnishes: (i) an alcoholic beverage to a person less than 18 years

of age when the person knew or reasonably should have known that the person was less than 18 years of age; or (ii) a controlled substance or drug; and (b) consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person; or (2) the person is at least 18 years of age and knowingly or intentionally encourages, aids, induces, or causes a person less than 18 years of age to commit an act that would be a felony if committed by an adult.

A Class A felony is punishable by a prison term ranging from 20 to 50 years depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from 2 to 8 years depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$26,825 in FY 2002. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in DOC facilities for all Class A felony offenders is approximately 9.1 years. The average length of stay for all Class C felony offenders is approximately 2 years.

The Family and Social Services Administration reports that there were 7,012 children who were substantiated as victims of abuse or neglect and were provided services in CY 2002.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A or C felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44. Any additional expenditures would likely be small.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

Fiscal Analyst: Sarah Brooks, 317-232-9559.